

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, D.C. 20268-0001

COMPETITIVE PRODUCT LIST	)	Docket No. MC2013-57
ADDING ROUND-TRIP MAILER	)	

COMPETITIVE PRODUCT PRICES	)	Docket No. CP2013-75
ROUND-TRIP MAILER (MC2013-57)	)	

**MOTION OF GAMEFLY, INC., FOR LEAVE TO FILE  
REPLY SUPPLEMENTAL COMMENTS**

**(September 18, 2013)**

GameFly, Inc. respectfully requests leave to file supplemental comments replying to one argument advanced in the September 11 comments of Netflix, Inc.: that DVD mail should not be reclassified as a competitive product under 39 U.S.C. § 3642(b)(1) because the rate equalization prescribed by the Commission in Order No. 1763 will prevent the Postal Service from “set[ting] prices to maximize profits.” Netflix comments at 12-16.

Order No. 1827 authorized only the Postal Service to file reply comments today—presumably on the assumption that the comments filed on September 11 would be adverse only to the Postal Service. This assumption proved to be correct for the September 11 comments of the Public Representative, and for several sections of Netflix’s comments.

In Section III (pp. 12-16) of its comments, however, Netflix argues that DVD mail should not be reclassified as a competitive product because the rate equalization prescribed by the Commission in Order No. 1763 will prevent the Postal Service from “set[ting] prices to maximize profits.” Netflix at 13. The thrust of the argument is that (1) Section 3642(b)(1) allows a market-dominant product to be reclassified as competitive only if the product transfer will allow the Postal Service to engage in unconstrained profit-maximization; (2) the profit-maximizing markup over marginal cost varies with the customer’s price elasticity of demand; (3) Netflix DVD mail has a much higher markup over cost than GameFly DVD mail, and Netflix’s demand for DVD mail service is more price elastic than GameFly’s demand; and (4) the rate equalization prescribed by the Commission in Order No. 1763, by preventing the Postal Service from engaging in unconstrained profit maximization, thus renders Section 3642(b)(1) inapplicable. Netflix comments at 12-16.

This argument, while ostensibly offered against reclassifying DVD mail as a competitive product, may in fact be a back-door attempt to lay the foundation for relitigating the price equalization remedy prescribed by the Commission in Order No. 1763 and upheld in Order No. 1807. As such, the argument is adverse to GameFly. Due process warrants allowing GameFly an opportunity to respond.

Respectfully submitted,

A handwritten signature in black ink that reads "David M. Levy". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

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